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PTO/SB/21 (04-04)

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U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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<b>TRANSMITTAL FORM</b> (to be used for all correspondence after initial filing)	Application Number	10797,692
	Filing Date	March 9, 2004
	First Named Inventor	May, et al.
	Art Unit	3738
	Examiner Name	To Be Assigned
Total Number of Pages in This Submission	Attorney Docket Number	5490-000031/CPG

ENCLOSURES (check all that apply)		
<input type="checkbox"/> Fee Transmittal Form  <input type="checkbox"/> Fee Attached  <input type="checkbox"/> Amendment / Reply  <input type="checkbox"/> After Final  <input type="checkbox"/> Affidavits/declaration(s)  <input type="checkbox"/> Extension of Time Request  <input type="checkbox"/> Express Abandonment Request  <input checked="" type="checkbox"/> Information Disclosure Statement  <input type="checkbox"/> Certified Copy of Priority Document(s)  <input type="checkbox"/> Response to Missing Parts/ Incomplete Application  <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s)  <input type="checkbox"/> Licensing-related Papers  <input type="checkbox"/> Petition  <input type="checkbox"/> Petition to Convert to a Provisional Application  <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address  <input type="checkbox"/> Terminal Disclaimer  <input type="checkbox"/> Request for Refund  <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Technology Center (TC)  <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences  <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)  <input type="checkbox"/> Proprietary Information  <input type="checkbox"/> Status Letter  <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):  <b>1449 Form (3 sheets); and return postcard</b>
Remarks: The Commissioner is hereby authorized to charge any additional fees that may be required under 37 CFR 1.16 or 1.17 to Deposit Account No. 08-0750. A duplicate copy of this sheet is enclosed.		

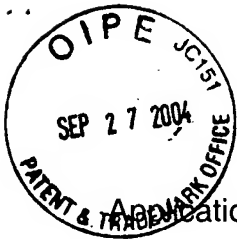
SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm or Individual name	Harness, Dickey & Pierce, P.L.C.	Attorney Name	Richard W. Warner
		Reg. No.	38,043
Signature	<i>Richard W. Warner</i>		
Date	Sept. 27, 2004		

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.			
Typed or printed name	Richard W. Warner	Express Mail Label No.	EV 531 989 994 US (9/27/2004)
Signature	<i>Richard W. Warner</i>	Date	Sept. 27, 2004

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

EV 531 989 994 US



**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application No.: 10/797,692  
Filing Date: March 9, 2004  
Applicant: May, et al.  
Group Art Unit: 3738  
Examiner: To Be Assigned  
Title: COMPLIANT FIXATION OF EXTERNAL PROSTHESIS  
Attorney Docket: 5490-000031/CPG

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Director of the United States Patent  
and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

**INFORMATION DISCLOSURE STATEMENT**

Sir:

Pursuant to 37 C.F.R. §§ 1.56, 1.97 and 1.98, Applicant hereby submits an Information Disclosure Statement for consideration by the Examiner.

I. LIST OF PATENTS, PUBLICATIONS, AND OTHER INFORMATION

The patents, publications and other information requested to be considered by the Office (except unpublished U.S. patent applications) are listed on Form 1449 attached hereto.

II. COPIES

A. \_\_\_\_\_ Submitted herewith is a legible copy of (i) each U.S. patent application publication and U.S. and foreign patent; (ii) each publication or that portion which caused it to be listed; (iii) for each cross-referenced pending U.S. application listed below in Section IV, the application specification including the claims, and any drawing of the application which caused it to be listed including the claims directed to that portion; and (iv) all other information or that portion which caused it to be listed.

B.  X  Any patents, publications or other information which are listed on Form 1449 or on the copies of PTO-892, but which are not enclosed herewith, were previously cited by or submitted to the PTO in one of the following applications which has been relied upon for an earlier filing date under 35 U.S.C. § 120:

U.S. Serial Number  
10/305,620 (now USPN 6,712,855)

U.S. Filing Date  
11/27/02 (Issd 3/30/04)

C. X Because the present application was/is being filed after June 30, 2003, no copies of the U.S. patents or U.S. patent application publications which are listed on the attached Form 1449 are enclosed pursuant to the waiver of 37 C.F.R. §1.98(a)(2)(i). Any foreign patent documents or non-patent literature listed on the attached Form 1449 are enclosed herewith.

D. \_\_\_\_\_ This is a PCT application in the entry of the National Phase in the United States. A copy of the International Search Report is attached for the Examiner's information. The documents listed on the International Search Report are listed on the attached Form-1449 for consideration by the Examiner and for listing on any patent resulting from this application. If the International Search Report was from the US, EPO, or JPO search authorities, copies of these references should have been supplied to the USPTO under the trilateral agreement and are believed to be in the file of the above-identified application. (MPEP 1893.03(g))

III. CONCISE EXPLANATION OF THE RELEVANCE (check at least one box)

A. X Except as may be indicated below in (B), all of the patents, publications or other information are in the English language (concise explanation not required).

B. \_\_\_\_\_ A concise explanation of the relevance of each patent, publication or other information listed that is not in the English language is as follows (see 37 C.F.R. § 1.98(a)(3)):

1. \_\_\_\_\_ See the attached foreign patent office communication from a counterpart foreign application.
2. \_\_\_\_\_ English translations are provided.
3. \_\_\_\_\_ Other:

C. \_\_\_\_\_ The following additional information is provided for the Examiner's consideration.

IV. CROSS REFERENCE TO RELATED APPLICATION(S)

A. \_\_\_\_\_ The Examiner is advised that the following co-pending application(s) contain(s) subject matter that may be related to the present application. By bringing this(these) application(s) to the Examiner's attention, Applicant(s) does(do) not waive the confidentiality provisions of 35 U.S.C. § 122.

Serial No.

Filing Date

Art Unit

V. THIS IDS IS BEING FILED UNDER

A. X **37 C.F.R. § 1.97(b):** (check only one box)

1. \_\_\_\_ within three months of the filing date of a national application other than a continued prosecution application under § 1.53(d) (37 C.F.R. § 1.97(b)(1)). No fee or certification is required.
2. \_\_\_\_ within three months of the date of entry of the national stage as set forth in §1.491 in an international application (37 C.F.R. § 1.97(b)(2)). No fee or certification is required.
3. X before the mailing of a first Office Action on the merits (37 C.F.R. § 1.97(b)(3)). No fee or certification is required. In the event that a first Office Action on the merits has been issued, please consider this IDS under 37 C.F.R. § 1.97(c) and see the certification under 37 C.F.R. § 1.97(e) below; or, if no certification has been made, charge our deposit account a fee in the amount of \$180.00 as required by 37 C.F.R. § 1.17(p).
4. \_\_\_\_ before the mailing of a first Office Action after the filing of a request for continued examination under 37 C.F.R. § 1.114. No fee or certification is required.

B. \_\_\_\_ **37 C.F.R. § 1.97(c):** (check only one box)

before the mailing date of either any Final Office Action under 37 C.F.R. § 1.113, a Notice of Allowance under 37 C.F.R. § 1.311, or an action that otherwise closes prosecution.

1. \_\_\_\_ No certification; therefore, a fee in the amount of \$180.00 is required by 37 C.F.R. § 1.17(p).
2. \_\_\_\_ See the certification below. No fee is required.

C. \_\_\_\_ **37 C.F.R. § 1.97(d):**

after the mailing date of either a Final Office Action under 37 C.F.R. § 1.113 or a Notice of Allowance under 37 C.F.R. § 1.311, yet on or before payment of the issue fee.

1. \_\_\_\_ See the certification below. A fee in the amount of \$180.00 is required by 37 C.F.R. § 1.17(p).

VI. CERTIFICATION UNDER 37 C.F.R. § 1.97(e): (check only one box)

The undersigned hereby certifies that:

A. \_\_\_\_ each item of information contained in this IDS was first cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this IDS (See 37 C.F.R. § 1.97(e)(1)). See further statement under 37 C.F. R. 1.704(d) below in section VII, if applicable; or

B. \_\_\_\_ no item of information contained in this IDS was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the undersigned after making reasonable inquiry, no item of information contained in this IDS was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of this IDS (See 37 C.F.R. § 1.97(e)(2)).

C. \_\_\_\_ Some of the items of information were first cited in a communication from a foreign patent office. As to this information, the undersigned hereby certifies that each item of information contained in this IDS was cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this IDS. As to the remaining information, the undersigned hereby certifies that no item of this remaining information contained in this IDS was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the undersigned after making reasonable inquiry, no item of information contained in this IDS was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of this IDS.

VII. STATEMENT UNDER 37 CFR 1.704(d)

The undersigned hereby states that:

\_\_\_\_ each item of information contained in this IDS was cited in a communication from a foreign patent office in a counterpart application and this communication was not received by any individual designated in 37 C.F.R. § 1.56(c) more than thirty days prior to the filing of this IDS.

VIII. PAYMENT OF FEES (check only one box)

A. \_\_\_\_ A check in the amount of \$180.00 is enclosed for the above-identified fee.

B. \_\_\_\_ Please charge Deposit Account No. 08-0750 in the amount of \$180.00 for the above-indicated fee. A duplicate copy of this paper is attached.

The above references are being cited only in the interest of candor and without any admission that they constitute statutory prior art, contain matter which anticipates the invention, or which would render the same obvious, either singly or in combination, to a person of ordinary skill in the art. Furthermore, this Information Disclosure Statement shall not be construed as a representation that a search has been made.

If it is determined that this IDS has been filed under the wrong rule, the PTO is requested to consider this IDS under the proper rule (with a petition if necessary) and charge the appropriate fee to Deposit Account No. 08-0750.

Please charge any additional fees or credit any overpayment pursuant to 37 C.F.R. § 1.16 or § 1.17 to Deposit Account No. 08-0750.

Respectfully submitted,

Dated: Sept. 27, 2007

By: Richard W. Warner  
Richard W. Warner  
Reg. No. 38,043

HARNESS, DICKEY & PIERCE, P.L.C.  
P.O. Box 828  
Bloomfield Hills, Michigan 48303  
(248) 641-1600



FORM HDP-1449 (Based on Form PTO-1449)

**PATENT AND TRADEMARK OFFICE  
INFORMATION DISCLOSURE CITATION**

(Use several sheets if necessary)

Sheet 1 of 3

ATTORNEY DOCKET No.

5490-000031/CPG

SERIAL No.

10/797,692

APPLICANT

May, et al.

FILING DATE

March 9, 2004

GROUP

3738

**U.S. PATENT DOCUMENTS**

Ref. Desig.	Examiner's Initials	Document Number	Date	Name	Class/ Subclass	(If appropriate) Filing Date
1.		2003/0195636	10/2003	Coop		
2.		2003/0109878	06/2003	Grundeir		
3.		2,397,545	04/1946	Hardinge		
4.		3,947,897	04/1976	Owens		
5.		4,016,874	04/1977	Maffei, et al.		
6.		4,080,666	03/1978	Fixel		
7.		4,129,903	12/1978	Huggler		
8.		4,158,895	06/1979	Reswick, et al.		
9.		4,314,381	02/1982	Koeneman		
10.		4,502,160	03/1985	Moore, et al.		
11.		4,547,912	10/1985	Sherva-Parker		
12.		4,586,932	05/1986	Scales		
13.		4,644,943	02/1987	Thompson, et al.		
14.		4,673,407	06/1987	Martin		
15.		4,781,720	11/1988	Sherva-Parker		
16.		4,892,551	01/1990	Haber		
17.		4,904,264	02/1990	Scheunemann		
18.		4,938,768	07/1990	Wu		
19.		4,946,459	08/1990	Bradshaw, et al.		
20.		4,947,502	08/1990	Engelhardt		

Examiner:

Date Considered:

EXAMINER: Please initial if citation considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

## FORM HDP-1449 (Based on Form PTO-1449)

**PATENT AND TRADEMARK OFFICE  
INFORMATION DISCLOSURE CITATION**

(Use several sheets if necessary)

Sheet 2 of 3

ATTORNEY DOCKET NO.

5490-000031/CPG

SERIAL NO.

10/797,692

APPLICANT

May, et al.

FILING DATE

March 9, 2004

GROUP

3738

**U.S. PATENT DOCUMENTS**

Ref. Desig.	Examiner's Initials	Document Number	Date	Name	Class/ Subclass	(If appropriate) Filing Date
21.		4,955,910	09/1990	Bolesky		
22.		4,959,064	09/1990	Engelhardt		
23.		4,986,834	01/1991	Smith, et al.		
24.		5,007,935	04/1991	Vincent, et al.		
25.		5,035,712	07/1991	Hoffman		
26.		5,057,103	10/1991	Davis		
27.		5,071,435	12/1991	Fuchs, et al.		
28.		5,108,398	04/1992	McQueen, et al.		
29.		5,133,760	07/1992	Petersen, et al.		
30.		5,180,383	01/1993	Haydon		
31.		5,181,928	01/1993	Bolesky, et al.		
32.		5,197,989	03/1993	Hinckfuss, et al.		
33.		5,201,881	04/1993	Evans		
34.		5,281,226	01/1994	Davydov, et al.		
35.		5,326,360	07/1994	Kotz, et al.		
36.		5,334,184	08/1994	Bimman		
37.		5,352,227	10/1994	O'Hara		
38.		5,358,524	10/1994	Richelsoph		
39.		5,389,107	02/1995	Nassar, et al.		
40.		5,411,504	05/1995	Vilas		

Examiner:

Date Considered:

EXAMINER: Please initial if citation considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.



<b>FORM HDP-1449 (Based on Form PTO-1449)</b>  <b>PATENT AND TRADEMARK OFFICE</b> <b>INFORMATION DISCLOSURE CITATION</b> (Use several sheets if necessary)  Sheet 3 of 3	ATTORNEY DOCKET NO.	SERIAL NO.
	5490-000031/CPG	10/797,692
	APPLICANT	
	May, et al.	
	FILING DATE	GROUP
	March 9, 2004	3738

U.S. PATENT DOCUMENTS						
Ref. Desig.	Examiner's Initials	Document Number	Date	Name	Class/ Subclass	(If appropriate) Filing Date
41.		5,800,553	09/1998	Albrektsson, et al.		
42.		5,800,557	09/1998	Elhami		
43.		6,197,065	03/2001	Martin, et al.		
44.		6,482,238	11/2002	Grundeir		
45.		6,485,522	11/2002	Grundeir		
46.		6,508,841	01/2003	Martin, et al.		

FOREIGN PATENT DOCUMENTS							
Ref. Desig.	Examiner's Initials	Document Number	Date	Country	Class/ Subclass	Translation Yes      No	
1.		3605630	09/1987	Germany			
2.		293485	09/1991	Germany			
3.		2519248	12/1981	France			
4.		1181652	09/1985	SU			

OTHER DOCUMENTS (including Author, Title, Date, Pertinent Pages, etc.)		
Ref. Desig.	Examiner's Initials	
1.		D.L. Martin, M.D., A.S. Turner, B. V.Sc., M.S., J.O. Johnston, M.D.; Comparison of Cortical Bone Loss in Segmental Bone Prosthetic Replacement: Cemented Stem vs. Compliant Fixation.

Examiner:	Date Considered:
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EXAMINER: Please initial if citation considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.